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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,443	12/19/2001	Shawn Fanning	NPSTR-00101	8511

7590

11/01/2004

HAVERSTOCK & OWENS LLP
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260 Sheridan Avenue
Palo Alto, CA 94306

EXAMINER

COBY, FRANTZ

ART UNIT

PAPER NUMBER

2161

DATE MAILED: 11/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Technology Center 2100

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Office Action Summary

Application No.

10/025,443

Applicant(s)

FANNING ET AL.

Examiner

Frantz Coby

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) NONE is/are allowed.
- 6) ☒ Claim(s) 19-42 is/are rejected.
- 7) ☒ Claim(s) NONE is/are objected to.
- 8) ☒ Claim(s) NONE are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3 and 4</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2161

This is in response to application and preliminary amendment filed on December 19, 2001 in which claims 1-18 were canceled and claims 19-42 were are presented for examination.

Status of Claims

Claims 19-42 are pending.

Information Disclosure Statement

The information disclosure statement filed on February 19, 2002 and July 31, 2002 are in compliance with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. they have been placed in the application file and the information referred to therein has been considered as to the merits.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 19-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over kirsch et al. U.S. Patent no. 6,070,158 in view of Asakura U.S. Patent no. 6,169,988.

As per claim 19, Kirsch et al. disclose "the claimed limitations of "a search engine comprising a data object description table" by providing an Internet based search site in relation to a querying client and document server (Col. 4, lines 57-59; Col. 5, lines 19-23). In particular, Kirsch et al. disclose the claimed limitations of "a plurality of servers including a first server defined according to a first server identifier, the first server comprising a first data object defined according to a first data object description" (See Kirsch et al. Figure 1, component 18 and corresponding text). Notice that Figure 1 shows an Internet environment that can connect more than one server and the servers comprising documents. Also, Kirsch et al. disclose the claimed limitations of "a communication link coupling the search engine to the first server" (See Kirsch et al. Figure 1, component 14; Col. 5, lines 13-18).

It is noted, however, Kirsch et al. did not specifically detail the claimed features of "wherein the first server is configured to transmit the first data object description to the search engine, and wherein the search engine is configured to correlate the first data

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object description to the first server identifier within the data object description table” as recited in the instant claim 19. On the other hand, Asakura discloses a data sharing system (See Asakura Title, Abstract) that achieved the aforementioned limitations by providing a means for holding access information indicating relationship between a data name of the transferred data and a calculating machine name of a transfer destination when transferring data (See Asakura Title; Col. 2, lines 26-29; Figures 11-11-12, 14-23 and corresponding text).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the real-time document collection search engine system of Kirsch by incorporating the data sharing systems methodology of Asakura into the document server provided thereof (See Kirsch Figure 1, component 18). The motivation being to allow the real-time search engine of Kirsch to provide a data sharing system capable of always referring to the latest data (See Asakura Col. 2, lines 3-8).

As per claim 20, most of the limitations of this claim have been noted in the rejection of claim 19. Applicant's attention is directed to the rejection of claim 19 above. In addition, Kirsch et al. disclose the claimed feature of “wherein the first server is configured to upload the first data object description to the search engine” by providing means for a client search command to be transferred to a search engine (See kirsch et al. Col. 2, lines 8-46). Also, Note that Asakura provides mechanism for downloading and loading data (See Asakura Col. 9, lines 63-67)

It is noted, however, Kirsch et al. did not specifically detail the claimed feature of “wherein the search engine is further configured to store the first data object description in the data object description in the data object description table in a relationship with the first server identifier during the log-in process” as recited in the instant claim 20. On the other hand, Asakura achieved the aforementioned claimed features by disclosing a data sharing system including a means for holding access information indicating relationship between a data name of the transferred data and a calculating machine name of a transfer destination when transferring data, especially when data being shared is transferred on the network (See Asakura Title; Col. 2, lines 26-29; Figures 11-11-12, 14-23 and corresponding text).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the real-time document collection search engine system of Kirsch by incorporating the data sharing systems methodology of Asakura into the document server provided thereof (See Kirsch Figure 1, component 18). The motivation being to allow the real-time search engine of Kirsch to provide a data sharing system capable of always referring to the latest data (See Asakura Col. 2, lines 3-8).

As per claim 21, most of the limitations of this claim have been noted in the rejection of claim 20. Applicant’s attention is directed to the rejection of claim 20 above. In addition, Asakura discloses the claimed feature of “a second data object description stored within the data object description stored within the data object description table in correlation with a second identifier, wherein the second server identifier describes a

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second server and the second data object description describes a second data object"; a first data object request stored within the search engine, wherein the first data object request was received from the first server, wherein the first data object request is for the second data object (See Asakura Figures 11-12; Col. 20, lines 22-44; Col. 18, lines 41-49).

As per claim 22, most of the limitations of this claim have been noted in the rejection of claim 21. Applicant's attention is directed to the rejection of claim 21 above. In addition, Asakura discloses the claimed feature of "wherein the search engine is configured to transmit the second server identifier to the first server in response to the first data object request" (See Asakura Col. 10, lines 47-55; Col. 19, lines 43-47; Col. 20, lines 22-44).

As per claim 23, most of the limitations of this claim have been noted in the rejection of claim 22. Applicant's attention is directed to the rejection of claim 22 above. In addition, Asakura discloses the claimed feature of "wherein the second server is configured to transmit the second data object to the first server upon a valid request by the first server" (See Figures 1, 10 and corresponding text). The request is assumed to be valid since the data sharing system of Asakura is being applied in the World Wide Web and a logging mechanism is primarily incorporated in the network of figures 1, and 10.

As per claims 24-25, most of the limitations of these claims have been noted in the rejection of claim 23. Applicant's attention is directed to the rejection of claim 23 above. In addition, Asakura discloses the claimed feature of "wherein the first server is configured to notify the search engine that a download of the second data object is complete"; "wherein the second server is configured to notify the search engine that the download of the second data object is complete (See Asakura Col. 12, line 1-Col. 13, line 13).

As per claims 26-27, most of the limitations of these claims have been noted in the rejection of claim 23. Applicant's attention is directed to the rejection of claim 23 above. In addition, Asakura discloses the claimed feature of "wherein the search engine is configured to correlate the second data object description to the first server identifier within the data object description table when the download of the second data object is complete" and "**wherein the search engine** is configured to correlate, within the data object description table, **the second data object** description to the first server identifier when the download of the second data object is complete" through a confirmation result notice 221 of figure 1 (Also, See Asakura Figures 11-12; Col. 20, lines 22-44; col. 12, lines 8-15).

As per claims 28-29, most of the limitations of these claims have been noted in the rejection of claim 20. Applicant's attention is directed to the rejection of claim 20

above. In addition, Asakura discloses the claimed feature of "wherein the first server identifier is selected from a group consisting of a first Internet protocol address, a first quantity of simultaneous connections that can be sustained by the first server, a reliability rating of the first server and a server name"; and wherein the first data object description is selected from a group consisting of a title of the first data object, a size of the first data object, a type of the first data object, a text associated with the first data object, and a creator of the first data object" (See Asakura figures 2-3, 11-12, and 14-23).

As per claims 30-33, most of the limitations of these claims have been noted in the rejection of claim 23. Applicant's attention is directed to the rejection of claim 23 above. In addition, Asakura discloses the claimed feature of "wherein the first server is further configured to detect when the first data object is removed from a predetermined file location and to notify the search engine of the removal"; "wherein the search engine is configured to periodically poll the first server to determine if any data objects have been removed from a predetermined file location within the first server"; "wherein the search engine is configured to purge the relationship between the first data object description and the first server within the data object description table when the first server notifies the search engine of a removal of the first data object"; "wherein the search engine is configured to purge the relationship between the first data object description and the first server within the data object description table when the search engine determines that the first data object has been removed from the predetermined file location within the first server" (See Asakura Col. 15, line 3-Col. 16, line 6).

As per claims 34-37, most of the limitations of these claims have been noted in the rejection of claim 20. Applicant's attention is directed to the rejection of claim 20 above. In addition, Asakura discloses the claimed feature of "wherein the search engine is configured to send a periodic ping message between the search engine and the first server, and wherein the first server is configured to respond to the ping message"; "wherein the search engine is configured to purge the relationship between the first server identifier and the first data object description within the data object description table when the first server fails to respond to the ping message within a predetermined time"; "wherein the first server is configured to send a periodic ping message to the search engine following the log-in process"; and wherein the search engine is configured to purge the relationship between the first server identifier and the first data object description within the data object description table when the first server fails to send a ping message within a predetermined time" (See Asakura Col. 14, lines 25-59).

As per claim 38, most of the limitations of this claim have been noted in the rejection of claim 20. Applicant's attention is directed to the rejection of claim 20 above. In addition, Kirsch et al. disclose the claimed feature of "wherein the first server identifier comprises an IP address for accessing the first server over the Internet" (See Asakura Col. 19, lines 20-25). Also, Asakura's servers are embodied in the World Wide Web, which, primarily incorporate an IP addresses for the purpose of accessing the servers over the Internet.

As per claim 39, most of the limitations of this claim have been noted in the rejection of claim 22. Applicant's attention is directed to the rejection of claim 22 above. In addition, Asakura discloses the claimed feature of "wherein the second server identifier defines a server from among a first set of potential server identifiers related to a second data object in the data object description table, wherein the search engine is configured to transmit, in response to the first data object request, the first set of potential server identifiers representing a first set of potential servers capable of transmitting the second data object to the first server, and wherein the first server is configured to select an optimal data source from which to receive the first data object from among a first set of potential servers, wherein a selection of the optimal data source is based upon a comparison of operational parameters respectively associated with each server among the first set of potential servers" (See Asakura Figures 11-12; Col. 20, lines 22-49; Col. 9, line 60-Col. 10, line 3).

As per claim 40, most of the limitations of this claim have been noted in the rejection of claim 39. Applicant's attention is directed to the rejection of claim 39 above. In addition, Asakura discloses the claimed feature of "wherein the operational parameters are selected from a group consisting of roundtrip response time between the first server and a potential server, internet connection line speed (bandwidth) of a potential server, a reliability of a potential provider server, a number of requests already queued to a potential server, and a size of a file requested for downloading" (See Asakura Col. 18, line 41-Col. 19, line 47).

As per claim 41, most of the limitations of this claim have been noted in the rejection of claim 23. Applicant's attention is directed to the rejection of claim 23 above. In addition, Asakura discloses the claimed feature of wherein the "second server is configured to transmit data files to multiple servers in a time-multiplexed format" since a world wide web server is provided (See Asakura Col. 18, line 41-Col. 19, line 47).

As per claim 42, most of the limitations of this claim have been noted in the rejection of claim 20. Applicant's attention is directed to the rejection of claim 20 above. In addition, Kirsch et al. disclose the claimed feature of "wherein the first data object is selected from a group comprising audio data, text data, video data, image data and software executable data" (See Asakura Col. 18, lines 65-67).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz Coby whose telephone number is (571) 272-4017. The examiner can normally be reached on Monday-Friday 3:00 P.M. - 11:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571 272 4023. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Frantz Coby
Primary Examiner
Art Unit 2171

October 30, 2004

Notice of References Cited	Application/Control No. 10/025,443	Applicant(s)/Patent Under Reexamination FANNING ET AL.	
	Examiner Frantz Coby	Art Unit 2161	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,169,988	01-2001	Asakura, Takayoshi	707/10
	B	US-6,070,158	05-2000	Kirsch et al.	707/3
	C	US-5,884,046	03-1999	Antonov, Vadim	709/238
	D	US-5,964,834	10-1999	Crutcher, Paul M.	709/213
	E	US-6,397,209	05-2002	Reed et al.	707/3
	F	US-6,366,907	04-2002	Fanning et al.	707/3
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

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	N	JP 09288608 A	11-1997	Japan	SUZUKI, HIDEKI	G06F 12/00
	O	WO 9103024 A1	03-1991	World Intellect	MASDEN et al.	G06F 15/40
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

FORM PTO-1449
(Modified)U.S. Department of Commerce
Patent and Trademark Office

Attorney Docket No.: NPSTR-00101

Serial No.: 10/025,443

INFORMATION DISCLOSURE STATEMENT BY APPLICANT
(Use Several Sheets if Necessary)

Applicant: Fanning et al.

(37 CFR § 1.98(b))

Filing Date: December 19, 2001

Group Art Unit: 2171

U.S. PATENT DOCUMENTS

Examiner Initials		Serial / Patent Number	Issue Date	Applicant / Patentee	Class	Subclass	Filing Date
FC	AA	5,675,819	10/07/97	Schuetze	395	760	06/16/94
FC	AB	5,794,178	08/11/98	Caid et al.	704	9	04/12/96
FC	AC	5,884,305	03/16/99	Kleinburg et al.	707	6	06/13/97
FC	AD	5,857,179	01/05/99	Vaithyanathan et al.	707	2	09/09/96
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		Document Number	Publication Date	Country / Patent Office	Class	Subclass	Translation	
							Yes	No
	AK							
	AL							
	AM							
	AN							
	AO							

OTHER DOCUMENTS (Including Author, Title, Date, Relevant Pages, Place of Publication)

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	AQ	
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Examiner:

Hantz Goby

Date Considered:

10/30/04

EXAMINER:

Initial citation considered. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

FORM PTO-1449
(Modified)

MAR 25 2002

U.S. Department of Commerce
Patent and Trademark Office

Attorney Docket No.: NPSTR-00101

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U.S. PATENT DOCUMENTS

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FC	AA	Re: 36,840	08/29/00	Mihalisin et al.	345	140	07/03/95
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FC	AF	4,766,581	08/23/88	Korn et al.	369	30	08/07/84
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FC	BI	5,712,906	01/27/98	Gradys et al.	379	93.17	03/29/96

Examiner: *Arantz*Date Considered: *10/30/04*

EXAMINER:

Initial citation considered. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

FORM PTO-1449
(Modified)

MAR 25 2002

U.S. Department of Commerce
Patent and Trademark Office

Attorney Docket No.: NPSTR-00101

Serial No.: 10/025,443

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(See Several Sheets if Necessary)

(37 CFR § 1.98(b))

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U.S. PATENT DOCUMENTS

Examiner Initials		Serial / Patent Number	Issue Date	Applicant / Patentee	Class	Subclass	Filing Date
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FC	BK	5,734,961	03/31/98	Castille	455	5.1	12/22/95
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FC	BS	5,784,562	07/21/98	Diener	395	200.47	10/10/95
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FC	BU	5,796,393	08/18/98	MacNaughton et al.	345	329	11/08/96
FC	BV	5,806,065	09/08/98	Lomet	707	8	05/06/96
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Examiner:

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Attorney Docket No.: NPSTR-00101

Serial No.: 10/025,443

INFORMATION DISCLOSURE STATEMENT BY APPLICANT
(Use Several Sheets if Necessary)

Applicant: Fanning et al.

(37 CFR § 1.98(b))

Filing Date: December 19, 2001

Group Art Unit: 2171

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Examiner: *Arantz Gaby*Date Considered: *10/30/04*

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Applicant: Fanning et al.

Filing Date: December 19, 2001

Group Art Unit: 2171

FOREIGN PATENTS OR PUBLISHED FOREIGN PATENT APPLICATIONS

		Document Number	Publication Date	Country / Patent Office	Class	Subclass	Translation	
							Yes	No
	DW							
	DX							
	DY							

OTHER DOCUMENTS (Including Author, Title, Date, Relevant Pages, Place of Publication)

FC	DZ	"Gnutella News - Gnutella News and Informtaion," 8/10/00, www.gnutella.com
FC	EA	"Gnotella Help Page," 8/10/00, www.gnotella.nerdherd.net/help.html
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Applicant: Fanning et al.

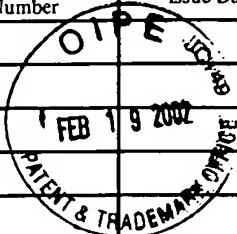
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Examiner Initials	Serial / Patent Number	Issue Date	Applicant / Patentee	Class	Subclass	Filing Date
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Examiner:

Franky Abby

Date Considered:

10/30/04

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